



Rep. Keith Farnham

Filed: 3/9/2010

09600HB5510ham001

LRB096 19632 AJ0 38135 a

1 AMENDMENT TO HOUSE BILL 5510

2 AMENDMENT NO. _____. Amend House Bill 5510 on page 1,
3 immediately below line 3, by inserting the following:

4 "Section 3. The Code of Criminal Procedure of 1963 is
5 amended by changing Section 112A-17 as follows:

6 (725 ILCS 5/112A-17) (from Ch. 38, par. 112A-17)

7 Sec. 112A-17. Emergency order of protection.

8 (a) Prerequisites. An emergency order of protection shall
9 issue if petitioner satisfies the requirements of this
10 subsection for one or more of the requested remedies. For each
11 remedy requested, petitioner shall establish that:

12 (1) The court has jurisdiction under Section 112A-9;

13 (2) The requirements of Section 112A-14 are satisfied;

14 and

15 (3) There is good cause to grant the remedy, regardless
16 of prior service of process or of notice upon the

1 respondent, because:

2 (i) For the remedies of "prohibition of abuse"
3 described in Section 112A-14(b)(1), "stay away order
4 and additional prohibitions" described in Section
5 112A-14(b)(3), "removal or concealment of minor child"
6 described in Section 112A-14(b)(8), "order to appear"
7 described in Section 112A-14(b)(9), "physical care and
8 possession of the minor child" described in Section
9 112A-14(b)(5), "protection of property" described in
10 Section 112A-14(b)(11), "prohibition of entry"
11 described in Section 112A-14(b)(14), "prohibition of
12 access to records" described in Section
13 112A-14(b)(15), and "injunctive relief" described in
14 Section 112A-14(b)(16), the harm which that remedy is
15 intended to prevent would be likely to occur if the
16 respondent were given any prior notice, or greater
17 notice than was actually given, of the petitioner's
18 efforts to obtain judicial relief;

19 (ii) For the remedy of "grant of exclusive
20 possession of residence" described in Section
21 112A-14(b)(2), the immediate danger of further abuse
22 of petitioner by respondent, if petitioner chooses or
23 had chosen to remain in the residence or household
24 while respondent was given any prior notice or greater
25 notice than was actually given of petitioner's efforts
26 to obtain judicial relief, outweighs the hardships to

1 respondent of an emergency order granting petitioner
2 exclusive possession of the residence or household.
3 This remedy shall not be denied because petitioner has
4 or could obtain temporary shelter elsewhere while
5 prior notice is given to respondent, unless the
6 hardships to respondent from exclusion from the home
7 substantially outweigh those to petitioner.

8 (iii) For the remedy of "possession of personal
9 property" described in Section 112A-14(b)(10),
10 improper disposition of the personal property would be
11 likely to occur if respondent were given any prior
12 notice, or greater notice than was actually given, of
13 petitioner's efforts to obtain judicial relief, or
14 petitioner has an immediate and pressing need for
15 possession of that property.

16 An emergency order may not include the counseling, legal
17 custody, payment of support or monetary compensation remedies.

18 (b) Appearance by respondent. If respondent appears in
19 court for this hearing for an emergency order, he or she may
20 elect to file a general appearance and testify. Any resulting
21 order may be an emergency order, governed by this Section.
22 Notwithstanding the requirements of this Section, if all
23 requirements of Section 112A-18 have been met, the Court may
24 issue a 30-day interim order.

25 (c) Emergency orders: court holidays and evenings.

26 (1) Prerequisites. When the court is unavailable at the

1 close of business, the petitioner may file a petition for a
2 21-day emergency order before any available circuit judge
3 or associate judge who may grant relief under this Article.
4 If the judge finds that there is an immediate and present
5 danger of abuse to petitioner and that petitioner has
6 satisfied the prerequisites set forth in subsection (a) of
7 Section 112A-17, that judge may issue an emergency order of
8 protection.

9 (1.5) Issuance of order. The chief judge of the circuit
10 court may designate for each county in the circuit at least
11 one judge to be reasonably available to issue orally, by
12 telephone, by facsimile, or otherwise, an emergency order
13 of protection at all times, whether or not the court is in
14 session.

15 (2) Certification and transfer. The judge who issued
16 the order under this Section shall promptly communicate or
17 convey the order to the sheriff to facilitate the entry of
18 the order into the Law Enforcement Agencies Data System by
19 the Department of State Police pursuant to Section 112A-28.

20 Any order issued under this Section and any documentation
21 in support thereof shall be certified on the next court day
22 to the appropriate court. The clerk of that court shall
23 immediately assign a case number, file the petition, order
24 and other documents with the court and enter the order of
25 record and file it with the sheriff for service, in
26 accordance with Section 112A-22. Filing the petition shall

1 commence proceedings for further relief, under Section
2 112A-2. Failure to comply with the requirements of this
3 subsection shall not affect the validity of the order.
4 (Source: P.A. 90-392, eff. 1-1-98.)".